

CRM-M-30201-2020 (O&M)

Through Video Conference

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

**CRM-M-30201-2020 (O&M).
Decided on: October 12, 2020.**

Qayyum

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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**PRESENT Mr.Gautum Dutt, Advocate,
for the petitioner.**

Mr.Naveen K. Sheoran, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.622 dated 10.10.2019, under Sections 148, 149, 279, 307 and 336 IPC, as well as under Section 25 (1B)(a), 27 (1) of the Arms Act, 1959 and under Section 13 (2) of the Haryana Gauravansh Sanrakshan and Gausamvardhan Act, 2015 and Section 11 of the Prevention of Cruelty to Animals Act, 1960,

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registered at Police Station, Sector 10, District Gurugram.

The allegations as per the FIR are that one Manoj son of Suresh, suffered a statement before the police that he is working as a farmer and is also worker of Bajrang Dal. On 9th/10th October, 2019 at about 2:00 A.M., in the night, he along with his colleagues namely Mohit @ Monu son of Om Parkash, resident of village Maneshar Gurugram, Deepak son of Ramesh, resident of village Chandla Dungerbass and Deepak son of Ramniwas resident of village Kukdola, Gurugram, in vehicle marka Balero were present in village Bondsai in connection with cow protection duty, then they noticed one white colour vehicle Bolero pick up without number plate loaded with cows near Mandir situated before Bhondsai naka. When they tried to stop that vehicle, it did not stop. On not stopping the vehicle, they started following them on their own vehicle. On seeking them they turned back their vehicle towards Gurugram side and their vehicle started to run with high speed towards Gurugram and they chased their vehicle. When they reached near their vehicle, then they threw one cow from their vehicle before our vehicle. Even thereafter, when they chased their vehicle continuously, then they again threw two cows from their vehicle before our vehicle in Badshahpur. They saved their vehicle from those cows lying on the road and continued to chase their vehicle. They turned their vehicle from Vatika Chowk towards Sector 56 and thereafter, they started to fled away towards Bakhtawar Chowk via Jhadsha village and again they threw one more cow from their vehicle before our vehicle. They chased them every time. Thereafter, they started to run away on wrong direction of service road

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toward Bairy Wala Bag and turned their vehicle from Nexa Showroom towards Shanti Nagar, and near breaker they threw stepney of their vehicle before us but we saved our vehicle and started to follow them. Thereafter, they reached on Khandsa road and turned their vehicle towards Bhuteshwar Mandir and thereafter they took turn towards Kadipur village. When they reached near School of village Kadipur, then they showed us a country made pistol from conductor side and thereafter, they fired gun shot from driver side towards us which was hit on chest of Mohit @ Monu who was driving our vehicle. In the FIR, the names of three persons who were stated to be sitting on the rear side have been specifically mentioned i.e. Anjum son of Sujat, Liyakat son of Sujat and Istak son of Amin as well as the petitioner namely Qayyum. Thereafter, it is alleged that after stopping their vehicle, the driver i.e. the petitioner fired gun shot which hit on the chest of Monu @ Mohit. It is further alleged in the FIR that these persons got the cows for the purpose of slaughtering.

Learned counsel for the petitioner has submitted that during investigation the alleged injured namely Mohit @ Monu had suffered an affidavit that out of the aforesaid three persons, two of them were not involved in the case despite the fact that their names have been specifically mentioned in the FIR and now they have been declared innocent by the police and have been kept in column No.2 while presenting report under Section 173 (2) Cr.P.C. He has further submitted that while presenting challan even the provisions of Sections 5 and 17 of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015, have been deleted by the police.

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He has further submitted that in other words the alleged offence of transportation and carrying of cows for slaughtering purposes has been deleted by the police itself. The learned counsel has further submitted that out of four persons named in the FIR, three have already been declared as innocent by the police itself and therefore, the entire story put forth by the prosecution has been falsified in this regard. He has further submitted that thereafter five more persons were nominated in the FIR out of which three have already been enlarged on bail by this Court. He has further submitted that the investigation in the present case is already complete and challan has been presented however, the charges in the present case have not been framed yet. The petitioner is in custody since 6.12.2019 i.e. for almost 10 months and no useful purpose would be served in case the petitioner is kept in custody for a longer period and therefore, learned counsel for the petitioner has prayed for the grant of regular bail to the petitioner.

On the other hand, learned State counsel has submitted that out of 9 accused, 3 have been declared as innocent who were named in the FIR and two of them have been declared as proclaimed offenders and it is correct that three of the other accused have been enlarged on bail. So far as the custody period of the petitioner is concerned, the same is not disputed. However, the learned State counsel has opposed the grant of bail to the petitioner on the ground that he was earlier also involved in 6 other cases including three cases under Section 307 IPC and therefore, looking at the conduct of the petitioner, he is not entitled to be granted the concession of regular bail.

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To this, the learned counsel for the petitioner has categorically submitted that all those FIRs were the result of the personal enmity and in all those FIRs, the petitioner has been enlarged on bail and therefore, pendency of other FIRs itself could not be a ground for denial of bail to the petitioner.

I have heard the learned counsel for the petitioner as well as the learned State counsel through video conference.

The custody period of the petitioner is not disputed. It is also not in dispute that the investigation in the present case is already complete and the challan stands presented. It is also not disputed that out of 4 persons who were earlier named in the FIR, 3 have already been declared innocent by the police and kept in column No.2 while presenting challan under Section 173 (2) Cr.P.C. It is also not disputed that provisions of Section 5 and 17 of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015, have been deleted while presenting challan. The three named accused have been declared innocent by the police although direct allegations have been levelled against them in the FIR which would certainly weigh before this Court while considering the grant of bail to the petitioner. Accordingly the deletion of Section 5 and 17 of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015, would also carry weight for the purpose of consideration of the application of the petitioner for the grant of regular bail.

Considering the totality of the circumstances, I deem it fit and appropriate to admit the petitioner on bail. The present petition is

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allowed. It is ordered that the petitioner shall be released on bail on furnishing bail bond/surety bond to the satisfaction of the concerned trial Court/Duty Magistrate.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

October 12, 2020.
raj arora

JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No